REMARKS

Reconsideration of this Application is respectfully requested in view of the foregoing amendment and the following remarks. Claims 1-38 were pending in this Application. Claims 1, 4-6, 8-10, 13-15, 17-20, 23-25, 27-29, 32-34 and 36-38 have been amended, and claims 2-3, 7, 11-12, 16, 21-22, 26, 30-31 and 35 have been canceled. Accordingly claims 1, 4-6, 8-10, 13-15, 17-20, 23-25, 27-29, 32-34 and 36-38 are presently under examination. Support for the amendments may be found, for example, in the original claims, and in the specification at page 21 lines 6-28, page 25 lines 1-34, page 26 line 19 through page 27 line 26, and Figures 5 and 8. No new matter has been introduced by any of the requested amendments. For the reasons set forth below, Applicant respectfully submits that all claims pending herein are in condition for Allowance.

In the Office Action:

- Claims 1-7, 10-16, 20-26 and 29-35 were rejected under 35 U.S.C. §102(e) as anticipated by Suzuka (U.S. Patent No. 7,177,530; hereinafter "Suzuka").

- Claims 8-9, 17-19, 27-28 and 36-38 were rejected under 35 U.S.C. §103(a) as being unpatentable for obviousness over Suzuka in view of Look et al. (U.S. Patent No. 6,757,906; hereinafter "Look").

Applicant respectfully traverses these rejections, for the reasons set forth below.

Anticipation Rejection over Suzuka

Claims 1-7, 10-16, 20-26 and 29-35 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by Suzuka. To the extent this rejection might still be applied to claims presently pending in this Application, it is respectfully traversed, and reconsideration is requested.

The present independent claims 1, 10, 20 and 29 recite methods or systems for managing cluster allocation, comprising the allocation of a number of clusters as a buffer file for storing media content instances, creating a pointer for each stored media content instance in the buffer

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file, and storing the pointers and a list of these clusters in a data record. In particular, the *size of the buffer file is maintained substantially constant over time*, by a process in which either (1) as the buffer file *approaches a full status, the oldest clusters are deallocated and new clusters are allocated*, thus "shifting" the buffer over time (as recited by claims 1 and 20); or (2) as a user designates a particular media content instance as permanent, *the clusters on which the permanent instance is stored are deallocated from the buffer and new clusters are allocated*, which also results in "shifting" the buffer over time (as recited by claims 10 and 29).

The Office contends that Suzuka teaches maintaining a data record and normal play locations, and also teaches allocating a substantially constant size buffer. Office Action at pages 2-3. The Office further contends that Suzuka teaches using normal play locations to reference media content instances, and also designating media content instances as permanent. Office Action at page 4. Applicant respectfully disagrees.

Contrary to the assertions in the Office Action, *Suzuka does not teach maintaining a buffer file size substantially constant over time*. The Office pointed to element 41-3 in Figure 4 of Suzuka as allegedly teaching this size maintenance, but Applicant respectfully disagrees. Suzuka at column 6, lines 43-47 teaches that the "file description 41 has ... a use internal buffer 41-3 indicating an internal buffer 12 to be used when accessing the file." Thus, Suzuka *merely indicates that a particular buffer is to be used*, and does not teach or suggest maintaining a buffer's size substantially constant over time, despite changes in the data stored therein. *See also* Suzuka at Figure 4. Nowhere in this cited passage, or indeed anywhere, does Suzuka teach, disclose or suggest the deallocation/new allocation of clusters from the buffer file, or indeed any other form of time shifting the buffer, as is required by all of the present claims.

Nor does Suzuka teach designating media content instances as permanent. The Office pointed to Figure 7 and columns 8-9 as allegedly teaching such designation, but Applicant respectfully disagrees. Suzuka at columns 8-9 teaches writing files to the hard drive. In the claimed invention, however, the media content instance to be made permanent *is already written to the hard drive, because the buffer file is on the hard drive*. In other words, the mere writing of a media content instance to the hard drive does not make the instance permanent. Thus,

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Suzuka does not teach, disclose or suggest the claimed designation of a media content instance as permanent, as is required by claims 10 and 29, and their respective dependent claims.

Accordingly, for at least these reasons, the anticipation rejection is traversed, and withdrawal of this rejection is respectfully requested.

Obviousness Rejection over Suzuka in view of Look

Claims 8-9, 17-19, 27-28 and 36-38 were rejected under 35 U.S.C. §103(a) as being unpatentable for obviousness over Suzuka in view of Look. To the extent this rejection might still be applied to claims presently pending in this Application, it is respectfully traversed, and reconsideration is requested.

As previously discussed, Suzuka is deficient as a primary reference, because it fails to teach or suggest each and every limitation of the independent claims. In particular, Suzuka does not teach or suggest maintaining a buffer file size substantially constant over time by deallocating/newly allocating clusters from/to the buffer file, nor does Suzuka teach designating a media content instance as permanent. The Office contends that Look teaches storing start and stop times in the data record, but such alleged teachings fail to supplement the deficiencies of Suzuka. Thus, Suzuka and Look, either alone or combined, fail to teach or suggest the claimed maintenance of a substantially constant buffer size, or designation of a media content instance as permanent limitations. Hence, the cited references taken alone or in combination do not teach, suggest, or make obvious the present invention, and Applicant respectfully requests that the rejection be withdrawn.

In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this Application in even better condition for issuance, the Examiner is encouraged to telephone Applicant's undersigned representative.

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EDELL, SHAPIRO & FINNAN, LLC   /June E. Cohan/
1901 Research Boulevard, Suite 400
Rockville, MD 20850   June E. Cohan
Telephone: 301.424.3640   Registration No. 43,741
Facsimile: 301.762.4056

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